

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

CLARO JON EDWARDS,

Plaintiff.

5

CAROLYN W. COLVIN, Acting  
Commissioner of Social Security.

Defendant.

NO: 2:15-CV-0082-TOR

ORDER GRANTING DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT

BEFORE THE COURT are the parties' cross-motions for summary

judgment. ECF Nos. 15, 16. This matter was submitted for consideration without oral argument. The Court has reviewed the administrative record and the parties' completed briefing, and is fully informed. For the reasons discussed below, the Court grants Defendant's motion and denies Plaintiff's motion.

## JURISDICTION

The Court has jurisdiction over this case pursuant to 42 U.S.C. § 1383(c)(3).

ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT ~ 1

## 1 STANDARD OF REVIEW

2 A district court's review of a final decision of the Commissioner of Social  
3 Security is governed by 42 U.S.C. § 405(g). The scope of review under §405(g) is  
4 limited: the Commissioner's decision will be disturbed "only if it is not supported  
5 by substantial evidence or is based on legal error." *Hill v. Astrue*, 698 F.3d 1153,  
6 1158 (9th Cir. 2012). "Substantial evidence" means relevant evidence that "a  
7 reasonable mind might accept as adequate to support a conclusion." *Id.* at 1159  
8 (quotation and citation omitted). Stated differently, substantial evidence equates to  
9 "more than a mere scintilla[,] but less than a preponderance." *Id.* (quotation and  
10 citation omitted). In determining whether this standard has been satisfied, a  
11 reviewing court must consider the entire record as a whole rather than searching  
12 for supporting evidence in isolation. *Id.*

13 In reviewing a denial of benefits, a district court may not substitute its  
14 judgment for that of the Commissioner. If the evidence in the record "is  
15 susceptible to more than one rational interpretation, [the court] must uphold the  
16 ALJ's findings if they are supported by inferences reasonably drawn from the  
17 record." *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012). Further, a district  
18 court "may not reverse an ALJ's decision on account of an error that is harmless."  
19 *Id.* An error is harmless "where it is inconsequential to the [ALJ's] ultimate  
20 nondisability determination." *Id.* at 1115 (quotation and citation omitted). The

1 party appealing the ALJ's decision generally bears the burden of establishing that  
2 it was harmed. *Shinseki v. Sanders*, 556 U.S. 396, 409-10 (2009).

### 3 **FIVE-STEP SEQUENTIAL EVALUATION PROCESS**

4 A claimant must satisfy two conditions to be considered "disabled" within  
5 the meaning of the Social Security Act. First, the claimant must be "unable to  
6 engage in any substantial gainful activity by reason of any medically determinable  
7 physical or mental impairment which can be expected to result in death or which  
8 has lasted or can be expected to last for a continuous period of not less than twelve  
9 months." 42 U.S.C. § 1382c(a)(3)(A). Second, the claimant's impairment must be  
10 "of such severity that he is not only unable to do his previous work[,] but cannot,  
11 considering his age, education, and work experience, engage in any other kind of  
12 substantial gainful work which exists in the national economy." *Id.*  
13 § 1382c(a)(3)(B).

14 The Commissioner has established a five-step sequential analysis to  
15 determine whether a claimant satisfies the above criteria. *See* 20 C.F.R.  
16 § 416.920(a)(4)(i)-(v). At step one, the Commissioner considers the claimant's  
17 work activity. *Id.* § 416.920(a)(4)(i). If the claimant is engaged in "substantial  
18 gainful activity," the Commissioner must find that the claimant is not disabled. *Id.*  
19 § 416.920(b).

1       If the claimant is not engaged in substantial gainful activities, the analysis  
2 proceeds to step two. At this step, the Commissioner considers the severity of the  
3 claimant's impairment. *Id.* § 416.920(a)(4)(ii). If the claimant suffers from "any  
4 impairment or combination of impairments which significantly limits [his or her]  
5 physical or mental ability to do basic work activities," the analysis proceeds to step  
6 three. *Id.* § 416.920(c). If the claimant's impairment does not satisfy this severity  
7 threshold, however, the Commissioner must find that the claimant is not disabled.

8 *Id.*

9       At step three, the Commissioner compares the claimant's impairment to  
10 several impairments recognized by the Commissioner to be so severe as to  
11 preclude a person from engaging in substantial gainful activity. *Id.*  
12 § 416.920(a)(4)(iii). If the impairment is as severe as or more severe than one of  
13 the enumerated impairments the Commissioner must find the claimant disabled  
14 and award benefits. *Id.* § 416.920(d).

15       If the severity of the claimant's impairment does meet or exceed the severity  
16 of the enumerated impairments, the Commissioner must pause to assess the  
17 claimant's "residual functional capacity." Residual functional capacity ("RFC"),  
18 defined generally as the claimant's ability to perform physical and mental work  
19 activities on a sustained basis despite his or her limitations, *id.* § 416.945(a)(1), is  
20 relevant to both the fourth and fifth steps of the analysis.

1 At step four, the Commissioner considers whether, in view of the claimant's  
2 RFC, the claimant is capable of performing work that he or she has performed in  
3 the past ("past relevant work"). *Id.* § 416.920(a)(4)(iv). If the claimant is capable  
4 of performing past relevant work, the Commissioner must find that the claimant is  
5 not disabled. *Id.* § 416.920(f). If the claimant is incapable of performing such  
6 work, the analysis proceeds to step five.

7 At step five, the Commissioner considers whether, in view of the claimant's  
8 RFC, the claimant is capable of performing other work in the national economy.  
9 *Id.* § 416.920(a)(4)(v). In making this determination, the Commissioner must also  
10 consider vocational factors such as the claimant's age, education and work  
11 experience. *Id.* If the claimant is capable of adjusting to other work, the  
12 Commissioner must find that the claimant is not disabled. *Id.* § 416.920(g)(1). If  
13 the claimant is not capable of adjusting to other work, the analysis concludes with  
14 a finding that the claimant is disabled and is therefore entitled to benefits. *Id.*

15 The burden of proof is on the claimant at steps one through four. *Bray v.*  
16 *Comm'r of Soc. Sec. Admin.*, 554 F.3d 1219, 1222 (9th Cir. 2009). If the analysis  
17 proceeds to step five, the burden shifts to the Commissioner to establish that (1) the  
18 claimant is capable of performing other work; and (2) such work "exists in  
19 significant numbers in the national economy." 20 C.F.R. § 416.960(c)(2); *Beltran*  
20 *v. Astrue*, 700 F.3d 386, 389 (9th Cir. 2012).

**ALJ FINDINGS**

Plaintiff filed an application for supplemental security income, dated November 18, 2013, alleging a disability onset date of May 1, 1994. Tr. 151-59. Plaintiff's claim was denied initially, Tr. 88-95, and upon reconsideration, Tr. 102-10. Plaintiff requested a hearing before an ALJ, Tr. 111-13, which was held on December 4, 2014, Tr. 29-37. On December 18, 2014, the ALJ rendered a decision denying Plaintiff's claim. Tr. 9-28.

At step one, the ALJ found that Plaintiff had not engaged in substantial gainful activity since November 18, 2013, the application date. Tr. 14. At step two, the ALJ found that Plaintiff had the following severe impairments: major depressive disorder; anxiety; personality disorder with antisocial features; low back pain; headaches; asthma; obesity. Tr. 14. At step three, the ALJ found that Plaintiff does not have an impairment or combination of impairments that meets or medically equals a listed impairment. Tr. 15. The ALJ then concluded that Plaintiff had the RFC

to perform light work as defined in 20 CFR 416.967(b) except he needs to alternate positions every two hours between sitting and standing or walking. He can occasionally bend, balance, stoop, crouch, crawl, kneel, and climb ramps and stairs but never climb ladders, ropes or scaffolds. He should avoid concentrated exposure to extreme temperatures, vibrations, respiratory irritants and all hazards. He is able to understand, remember and carry out simple, repetitive tasks and instructions, and is able to maintain attention and concentration on simple repetitive tasks for two-hour intervals

between regularly scheduled breaks. He can interact no more than briefly/superficially (defined as non-cooperative) with the public, coworkers and supervisors.

Tr. 17-18. At step four, the ALJ found Plaintiff had no past relevant work. Tr. 23. At step five, the ALJ found that, considering Plaintiff's age, education, work experience, and RFC, there are jobs in significant numbers in the national economy that Plaintiff could perform, such as office cleaner, advertising material distributor, and products assembler. Tr. 23. On that basis, the ALJ concluded that Plaintiff was not disabled as defined in the Social Security Act. Tr. 24.

On February 3, 2015, the Appeals Council denied Plaintiff's request for review, Tr. 1-6, making the ALJ's decision the Commissioner's final decision for purposes of judicial review. *See* 42 U.S.C. § 1383(c)(3); 20 C.F.R. §§ 416.1481, 422.210.

## ISSUES

Plaintiff seeks judicial review of the Commissioner's final decision denying him supplemental security income under Title XVI of the Social Security Act. ECF No. 22. Plaintiff raises the following two issues for this Court's review:

- (1) Whether the ALJ properly discredited Plaintiff's symptom claims; and
- (2) Whether the ALJ properly considered and weighed the medical opinion evidence.

ECF No. 15 at 9. The Court evaluates each issue in turn.

## DISCUSSION

### A. Adverse Credibility Finding

First, Plaintiff faults the ALJ for failing to provide specific findings with clear and convincing reasons for discrediting his symptom claims. *Id.* at 9-14.

An ALJ engages in a two-step analysis to determine whether a claimant's testimony regarding subjective pain or symptoms is credible. "First, the ALJ must determine whether there is objective medical evidence of an underlying impairment which could reasonably be expected to produce the pain or other symptoms alleged." *Molina*, 674 F.3d at 1112 (internal quotation marks omitted). "The claimant is not required to show that her impairment could reasonably be expected to cause the severity of the symptom she has alleged; she need only show that it could reasonably have caused some degree of the symptom." *Vasquez v. Astrue*, 572 F.3d 586, 591 (9th Cir. 2009) (internal quotation marks omitted).

Second, "[i]f the claimant meets the first test and there is no evidence of malingering, the ALJ can only reject the claimant's testimony about the severity of the symptoms if she gives 'specific, clear and convincing reasons' for the rejection." *Ghanim v. Colvin*, 763 F.3d 1154, 1163 (9th Cir. 2014) (quoting *Lingenfelter v. Astrue*, 504 F.3d 1028, 1036 (9th Cir. 2007)). "General findings are insufficient; rather, the ALJ must identify what testimony is not credible and what evidence undermines the claimant's complaints." *Id.* (quoting *Lester v. Chater*, 81

1 F.3d 821, 834 (9th Cir. 1995)); *Thomas v. Barnhart*, 278 F.3d 947, 958 (9th Cir.  
2 2002) (“[T]he ALJ must make a credibility determination with findings sufficiently  
3 specific to permit the court to conclude that the ALJ did not arbitrarily discredit  
4 claimant’s testimony.”). “The clear and convincing [evidence] standard is the most  
5 demanding required in Social Security cases.” *Garrison v. Colvin*, 759 F.3d 995,  
6 1015 (9th Cir. 2014) (quoting *Moore v. Comm’r of Soc. Sec. Admin.*, 278 F.3d 920,  
7 924 (9th Cir. 2002)).

8 In making an adverse credibility determination, the ALJ may consider, *inter*  
9 *alia*, (1) the claimant’s reputation for truthfulness; (2) inconsistencies in the  
10 claimant’s testimony or between his testimony and his conduct; (3) the claimant’s  
11 daily living activities; (4) the claimant’s work record; and (5) testimony from  
12 physicians or third parties concerning the nature, severity, and effect of the  
13 claimant’s condition. *Thomas*, 278 F.3d at 958-59.

14 This Court finds the ALJ provided several specific, clear, and convincing  
15 reasons for finding Plaintiff’s statements concerning the intensity, persistence, and  
16 limiting effects of his symptoms “not entirely credible.” Tr. 19.

17 First, the ALJ found the objective medical evidence did not support  
18 Plaintiff’s symptom claims. Tr. 19. The ALJ set out, in detail, the medical  
19 evidence regarding Plaintiff’s impairments and concluded that his allegations were  
20 inconsistent with the evidence. Tr. 19-22. For instance, as for Plaintiff’s physical

1 impairments, while Plaintiff complains of disabling back pain, the ALJ noted that  
2 radiology imaging “reveal[s] normal cervical spine and mild degenerative changes  
3 of the lumbar spine” and MRI results indicate “normal alignment and healthy spine  
4 except for L5-S1 disc narrowing and moderate disc extrusion, without significant  
5 nerve root compression, but moderate foraminal stenosis at L5-S1.” Tr. 19-20.  
6 Further, the ALJ put great significance on the fact that no treating or examining  
7 physician opined that Plaintiff’s impairments “would completely preclude work  
8 functioning.” Tr. 19. As for Plaintiff’s mental impairments, the ALJ observed that  
9 Plaintiff “testified that he could not work due to his mental limitations, yet as noted  
10 herein; examining and treating medical sources consistently reported normal  
11 findings or only mild psychological abnormalities on exam and reported that the  
12 claimant could return to work with treatment.” Tr. 22.

13 Such inconsistencies between Plaintiff’s alleged limitations and medical  
14 evidence provided a permissible reason for discounting Plaintiff’s credibility. *See*  
15 *Thomas*, 278 F.3d at 958-59 (“If the ALJ finds that the claimant’s testimony as to  
16 the severity of her pain and impairments is unreliable, the ALJ must make a  
17 credibility determination ... [t]he ALJ may consider ... testimony from physicians  
18 and third parties concerning the nature, severity and effect of the symptoms of  
19 which the claimant complains.”) (internal citations and modifications omitted); *see*  
20 *also Rollins v. Massanari*, 261 F.3d 853, 857 (9th Cir. 2001) (“While subjective

1 pain testimony cannot be rejected on the sole ground that it is not fully  
2 corroborated by objective medical evidence, the medical evidence is still a relevant  
3 factor in determining the severity of the claimant's pain and its disabling effects.”)  
4 (citation omitted).

5 Second, the ALJ noted the conservative treatment of Plaintiff's physical  
6 impairments and his noncompliance with certain suggested treatment. Tr. 19-20.  
7 The ALJ observed that Plaintiff has

8 not required hospitalization; he has undergone only regular and  
9 conservative treatment, while treating and examining medical sources  
have noted generally stable condition or reported objective medical  
abnormalities that have been generally mild ....

10 ... [Dr. Barnes] reported that the ongoing duration of symptoms was  
11 likely related to only intermittent flare-up and re-injury and  
12 recommended treatment with conservative modalities of bracing and  
epidural steroid injection treatment. However, nothing in the medical  
13 evidence indicates that the claimant has followed through and been  
wearing a brace or underwent injection treatment. The claimant's  
14 noncompliance with suggested treatment suggests to the undersigned  
that his condition is not as severe as he has alleged.

15 Tr. 19-20 (internal citations to the record omitted). Conservative treatment is a  
16 permissible reason to discredit Plaintiff's testimony. *See Parra v. Astrue*, 481 F.3d  
17 742, 751 (9th Cir. 2007) (“We have previously indicated that evidence of  
18 ‘conservative treatment’ is sufficient to discount a claimant's testimony regarding  
19 severity of an impairment.”) (citation omitted). Likewise, Plaintiff's failure to  
20 follow a prescribed course of treatment is also a permissible reason to discredit his

1 testimony. *See Molina*, 674 F.3d at 1113 (“We have long held that, in assessing a  
2 claimant’s credibility, the ALJ may properly rely on unexplained or inadequately  
3 explained failure ... to follow a prescribed course of treatment.”) (internal  
4 quotation marks and citation omitted).

5 The ALJ also observed that Plaintiff did not obtain treatment for his mental  
6 health impairments until late 2013. Tr. 21. The failure to seek mental health  
7 treatment may not be a legitimate basis to reject a claimant’s symptom claims. *See*  
8 *Nguyen v. Chater*, 100 F.3d 1462, 1465 (9th Cir. 1996). Nonetheless, in light of all  
9 the other permissible reasons the ALJ provided for discrediting Plaintiff’s  
10 testimony, this Court does not find the ALJ has committed reversible error. *See*  
11 *Molina*, 674 F.3d at 1115 (“[S]everal of our cases have held that an ALJ’s error  
12 was harmless where the ALJ provided one or more invalid reasons for disbelieving  
13 a claimant’s testimony, but also provided valid reasons that were supported by the  
14 record.” (citations omitted)); *see also Batson v. Comm’r of Soc. Sec. Admin.*, 359  
15 F.3d 1190, 1197 (9th Cir. 2004) (holding that any error the ALJ committed in  
16 asserting one impermissible reason for claimant’s lack of credibility did not negate  
17 the validity of the ALJ’s ultimate conclusion that the claimant’s testimony was not  
18 credible).

19 Third, the ALJ found Plaintiff’s daily activities were inconsistent with his  
20 symptom claims. Tr. 20, 22. The ALJ observed that Plaintiff “reported he had

1 difficulty dealing with people socially, yet also reported that [he] spends time daily  
2 visiting friends and socializes daily through text messages and Facebook.” Tr. 22.  
3 The ALJ also noted that Plaintiff “reported he could not stay focused for long, but  
4 could prepare meals, do laundry, dishes, go shopping, walk and drive.” Tr. 22.  
5 The ALJ further observed that in a Third Party Function Report, a friend of  
6 Plaintiff reported that Plaintiff “used public transportation, could shop in stores for  
7 groceries, pay bills, count change, handle a savings account and use a  
8 checkbook/money orders.” Tr. 22. Based on these reports, the ALJ reasoned that  
9 Plaintiff “clearly and consistently performs basic functioning within the limitations  
10 prescribed by the [RFC] contained in this decision.” Tr. 22. “While a claimant  
11 need not vegetate in a dark room in order to be eligible for benefits, the ALJ may  
12 discredit a claimant’s testimony when the claimant reports participation in  
13 everyday activities indicating capacities that are transferable to a work setting” or  
14 when activities “contradict claims of a totally debilitating impairment.” *Molina*,  
15 674 F.3d at 1112-13 (internal quotation marks and citations omitted). Thus, the  
16 ALJ provided another permissible reason to discredit Plaintiff’s testimony.

17 Fourth, the ALJ observed inconsistencies between Plaintiff’s testimony and  
18 his conduct. For instance, the ALJ noted that Plaintiff “testified at the hearing that  
19 he continued to attend counseling, yet the records indicate that the claimant  
20 cancelled an appointment and thereafter discontinued therapy.” Tr. 21. Such an

1 inconsistency is another permissible reason to discredit Plaintiff's testimony. *See*  
2 *Thomas*, 278 F.3d at 958-59.

3 In sum, despite Plaintiff's arguments to the contrary, the ALJ provided  
4 several specific, clear, and convincing reasons for rejecting Plaintiff's testimony.  
5 *See Ghanim*, 763 F.3d at 1163.

6 **B. Medical Opinion Evidence**

7 Next, Plaintiff faults the ALJ for improperly discounting the opinion of Dr.  
8 Arnold. ECF No. 15 at 15-16. Specifically, Plaintiff argues the ALJ provided  
9 inadequate reasons unsupported by substantial evidence for assigning Dr. Arnold's  
10 little weight.

11 There are three types of physicians: "(1) those who treat the claimant  
12 (treating physicians); (2) those who examine but do not treat the claimant  
13 (examining physicians); and (3) those who neither examine nor treat the claimant  
14 but who review the claimant's file (nonexamining or reviewing physicians)."

15 *Holohan v. Massanari*, 246 F.3d 1195, 1201-02 (9th Cir. 2001) (brackets omitted).  
16 "Generally, a treating physician's opinion carries more weight than an examining  
17 physician's, and an examining physician's opinion carries more weight than a  
18 reviewing physician's." *Id.* "In addition, the regulations give more weight to  
19 opinions that are explained than to those that are not, and to the opinions of

1 specialists concerning matters relating to their specialty over that of  
2 nonspecialists.” *Id.* (citations omitted).

3 If a treating or examining physician’s opinion is uncontradicted, an ALJ may  
4 reject it only by offering “clear and convincing reasons that are supported by  
5 substantial evidence.” *Bayliss v. Barnhart*, 427 F.3d 1211, 1216 (9th Cir. 2005).  
6 “However, the ALJ need not accept the opinion of any physician, including a  
7 treating physician, if that opinion is brief, conclusory, and inadequately supported  
8 by clinical findings.” *Bray*, 554 F.3d at 1228 (internal quotation marks and  
9 brackets omitted).

10 This Court finds the ALJ properly discounted the opinion of Dr. Arnold. As  
11 Plaintiff conceded, ECF No. 15 at 14, the ALJ need only have provided “specific  
12 and legitimate” reasoning for rejecting Dr. Arnold’s opinion as it was contradicted  
13 by other sources. *See Bayliss*, 427 F.3d at 1216. Specifically, it was contradicted  
14 by two psychological evaluators, both of whom reviewed the medical evidence and  
15 evaluated Plaintiff “as able to consistently sustain concentration, persistence and  
16 pace for simple instructions and tasks and brief/superficial interaction with the  
17 general public, coworkers and supervisors.” Tr. 21. Dr. Arnold’s opinion was also  
18 contradicted by a clinical psychologist who testified as an independent medical  
19 expert during the hearing, and who reviewed the medical evidence and opined  
20 Plaintiff had “some limitations secondary to his mental impairments, but he could

1 still understand and carry out simple work, but no complex work and he limited  
2 social interaction away from large groups, crowds and only small groups or work  
3 on his own.” Tr. 22.

4 Dr. Arnold conducted a psychological evaluation of Plaintiff on September  
5 19, 2013. Tr. 255-58. Dr. Arnold opined Plaintiff had marked limitations in two  
6 areas: (1) the ability to maintain appropriate behavior in a work setting; and (2) the  
7 ability to complete a normal work day and work week without interruptions from  
8 psychologically based symptoms. Tr. 257. Dr. Arnold concluded that Plaintiff  
9 would be impaired for 12 months with treatment. Tr. 257.

10 Upon review of Dr. Arnold’s opinion, the ALJ found:

11 Dr. Arnold noted that Trails “A” tested indicated scores consistent  
12 with impairment, but noted that Trails “B” was “deferred” *but*  
13 *provided no reasoning*. He diagnosed dysthymia disorder; general  
14 anxiety disorder; personality disorder; NOS with avoidant features;  
15 rule out diagnosis for borderline intellectual functioning and reported  
16 global assessment of functioning (GAF) score of 55. Dr. Arnold  
17 evaluated the claimant as moderately limited in eight areas and  
18 markedly limited in two areas of the thirteen basic work criterions for  
19 cognitive and social functioning on the DSHS form. However, Dr.  
20 Arnold noted on mental status exam findings within normal  
limitations, except for fund of knowledge. He noted thought process  
and speech were logical and progressive, the claimant was cooperative  
and congenial, affect was moderately constricted and congruent and  
only mood appeared as anxious and depressed. *Because Dr. Arnold’s*  
*opinions are internally inconsistent with his findings and minimally*  
*support his opined limitations*, little weight is accorded his opinions.  
Of further significance, the record also indicates that Dr. Arnold  
advised that the claimant concluded that the claimant should be able  
to return to work with treatment.

1 Tr. 21 (internal citations to the record omitted) (emphasis added).

2 Here, the ALJ provided two specific and legitimate reasons to discount Dr.  
3 Arnold's opinion. First, the ALJ states and explains that Dr. Arnold's opinions are  
4 internally inconsistent with his findings. Specifically, the ALJ found Dr. Arnold's  
5 findings of moderate and marked limitations were inconsistent with Dr. Arnold's  
6 assessment of Plaintiff's mental examination results, which were within normal  
7 limitations, except for Plaintiff's fund of knowledge. Inconsistency is a  
8 permissible reason to discount a physician's opinion. *See Tommasetti v. Astrue*,  
9 533 F.3d 1035, 1041 (9th Cir. 2008) (explaining the incongruity between a  
10 physician's opinions and medical records provides a specific and legitimate reason  
11 to discount the physician's opinion). Second, the ALJ states and explains Dr.  
12 Arnold provided limited reasoning and minimal support for his findings. This too  
13 is a permissible reason to discount a physician's opinion. *See Bray*, 554 F.3d at  
14 1228.

15 Plaintiff contends the ALJ's reasons are not supported by substantial  
16 evidence. ECF No. 15 at 15. In support, Plaintiff cites to the rule that a non-  
17 examining physician's opinion alone does not constitute substantial evidence. *See*  
18 *Lester v. Chater*, 81 F.3d 821, 831 (9th Cir. 1995) (holding the opinion of a  
19 nonexamining physician cannot by itself constitute substantial evidence).

20

1       This Court disagrees and finds there is substantial evidence to support the  
2 ALJ's specific and legitimate reasons. Here, there are three nonexamining doctors,  
3 one treating medical provider, and medical reports that conflict with Dr. Arnold's  
4 findings of marked limitations. For instance, in addition to the opinions of the  
5 nonexamining doctors, the ALJ provided some weight to Plaintiff's treating PA-C,  
6 Tobias Lopez, who evaluated Plaintiff "as capable of performing sedentary work  
7 due to migraine headaches, mild diabetes, neck and back pain and *psychological*  
8 conditions." Tr. 20 (citation to record omitted; emphasis added). In addition, as  
9 discussed, Dr. Arnold's own findings, contained within the medical record, conflict  
10 with his opinion. *See* Tr. 21; *see also* *Roberts v. Shalala*, 66 F.3d 179, 184 (9th  
11 Cir. 1995) (upholding ALJ's decision to reject examining psychologist's functional  
12 assessment that conflicted with his own written report and tests results which were  
13 contained in the record and found to constitute substantial evidence). The Court  
14 finds that the above referenced evidence constitutes substantial evidence. *See*  
15 *Andrews v. Shalala*, 53 F.3d 1035, 1042-43 (9th Cir. 1995) (where the Court found  
16 that the opinions of five nonexamining mental health professionals, medical reports  
17 in the record, and Plaintiff's own testimony amounted to substantial evidence).  
18       Accordingly, because the ALJ provided specific and legitimate reasons  
19 supported by substantial evidence for discounting Dr. Arnold's opinion, no error  
20 has been shown.

1 **ACCORDINGLY, IT IS HEREBY ORDERED:**

2 1. Plaintiff's Motion for Summary Judgment (ECF No. 15) is **DENIED**.

3 2. Defendant's Motion for Summary Judgment (ECF No. 16) is

4 **GRANTED**.

5 The District Court Executive is hereby directed to file this Order, enter

6 **Judgment for Defendant**, provide copies to counsel, and **CLOSE** the file.

7 **DATED** May 26, 2016.



Thomas O. Rice  
THOMAS O. RICE  
Chief United States District Judge